REMARKS

Claims 1-3, 7-12, 14-22, 26-39 and 44-46 are pending. Claims 1, 21 and 46 are independent. Reconsideration of this Application is respectfully requested based on the following remarks.

Rejections under 35 USC §103

Claims 1, 2, 14, 15, 19-21, 32, 33 and 35-37 stand rejected under 35 USC § 103(a) as unpatentable over Hung-yi in view of Given. Claims 3, 16-18, 22 and 34 stand rejected under 35 USC §103(a) as being unpatentable over Hyung-yi and Given in view of Flannery. Claims 7-12, 26-31, 38, 39, 44-46 and 49 stand rejected under 35 USC § 103(a) as unpatentable over Hung-yi in view of Given and Pollack.

These rejections are respectfully traversed.

Initially, Applicants respectfully note that the rejection of claim 49 is moot because claim 49 was canceled without prejudice in the Amendment filed on January 21, 2009.

With respect to claims 1, 2, 14, 15, 19-21, 32, 33 and 35-37:

Independent claim 1 recites a method of providing an advance screen saver warning for a display apparatus, the method comprising predetermining a screen saver standby time and an advance screen saver warning time; counting a current system idle time during which no system input activity is detected; activating an advance screen saver warning before activating a screen saver if the current system idle time is greater than or equal to a time difference between the screen saver standby time and the advance screen saver warning time; and continuously displaying the activated advance screen saver warning by the display apparatus until system activity by a user of the system is detected; deactivating the advance screen saver warning so that

it is no longer displayed, wherein the screen saver is activated only if the advance screen saver warning time is completed; and controlling, during the continuous execution of the advance screen saver warning, the display apparatus to output at least one of a specified sound and a visual warning message window indicative of a time difference between the screen saver standby time and the current system idle time. Independent claims 21 and 46 include similar features in a varying scope.

Applicant respectfully submits that none of the applied references discloses, suggests, or otherwise renders obvious the claimed invention including, for example, setting, and continuously displaying, an advance screen saver time of activation warning time, which represents a length of time before a screen saver is set to be activated during which an advance warning of upcoming screen saver activation is provided.

The outstanding Office Action admits this with respect to Hung-yi, for example, on page 5 of the outstanding Office Action. In an attempt to remedy this deficiency of Hung-yi, the Office Action turns to Given which also does not disclose setting, and continuously displaying, an advance screen saver time of activation warning time, which represents a length of time before a screen saver is set to be activated during which an advance warning of upcoming screen saver activation is provided.

All that Given does is to issue a sonic alert when its infrared control unit of its motion sensor is either getting ready to issue instructions to engage a screen saver, or when enough time has elapsed so that the screen saver activation is near.

Because neither one of the only two references, i.e., Hung-yi and Givens, applied in the rejection of claims 1, 2, 14, 15, 19-21, 32, 33 and 35-37 disclose or suggest the positively recited

feature of setting, and continuously displaying, an advance screen saver time of activation warning time, which represents a length of time before a screen saver is set to be activated during which an advance warning of upcoming screen saver activation is provided then, logically, there is no basis in these two references to disclose, suggest, or otherwise render obvious the invention recited in claims 1, 2, 14, 15, 19-21, 32, 33 and 35-37.

Additionally, in this regard, the Office Action admits that Hung-yi does not disclose activating an advance screen saver warning before activating a screen saver if the current system idle time is greater than or equal to a time difference between the screen saver standby time and the advance warning time, and neither does Given, because, while Given may issue a soft sonic warning "when enough time has elapsed that that the screen saver warning is near," Given clearly will not give a soft sonic warning if the current system time is equal to a time difference between the screen saver time and the advance warning time, because the time that has elapsed is such that the screen waver warning time is not "near," but has actually occurred. For this reason, also, there is no basis in these two references to disclose, suggest, or otherwise render obvious the invention recited in claims 1, 2, 14, 15, 19-21, 32, 33 and 35-37.

Furthermore, Applicant respectfully submits that Hung-yi and Given teach away from being combined as suggested. In this regard, Applicants note that Hung-yi is directed to the very limited situation of authorized use of computers by different authorized users for a preset time limit, which is not contemplated by Given, and Given is directed to the very different limited situation of a computer that requires use of a motion detector to sense whether a user is in the immediate vicinity of the computer and does not have any preset time limit on use of the

computer. For these reasons, Applicant respectfully submits that one of ordinary skill in the art would not be motivated to modify Hung-yi in view of Given, as suggested.

Further in this regard, Applicant respectfully submits that the Office Action fails to present any objective factual evidence to support a conclusion that one of ordinary skill in the art would be properly motivated to replace Hung-yi's system usage time with the counting of system idle time during which no system input activity is detected. The only disclosure that counting system usage time can be used in this manner is found in Applicant's disclosure, which may not be properly used against Applicant in hindsight.

Additionally, Applicant respectfully submits that Given's sonic alert that its screen saver is about to be activated because user motion has not been detected for a predetermined time period clearly does not constitute setting, and continuously displaying, an advance screen saver time of activation warning time, which represents a length of time before a screen saver is set to be activated during which an advance warning of upcoming screen saver activation is provided, as claimed.

The Office Action also concludes that it would be obvious to modify Hung-yi in view of Given to provide a continuous visual warning instead of a soft sonic warning as a "design choice." Applicant traverse this conclusion in that this rejection is relying on a *per se* rule that design choices are obvious. As stated by the Federal Circuit in *In re Ochiai*, 71 F.3d 1565, 1572, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995), "reliance on *per se* rules of obviousness is legally incorrect and must cease." Moreover, as pointed out in M.P.E.P. § 2144.04, the prior art must provide a motivation or reason for the worker in the art, without the benefit of Appellant's specification, to make the necessary changes in the reference device. Rejections on obviousness

grounds cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness:" *In re Kahn*, 441 F.3d 977,988(Fed. Cir. 2006) (quoted with approval in *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Further, in regard to this particular combination of references, Applicant respectfully submits that a visual warning will not work in Given's allegedly relevant disclosed situation, i.e., where a sonic warning will cause the quiet reader to look up momentarily, providing just enough motion for the ICU to reset the keyboard inactivity timer" of the key part.

Thus, the real motivation for combining these two references is improper hindsight reconstruction of the claimed invention based solely on Applicant's disclosure.

In summary, both Hung-yi and Given fails to disclose a number of positively recited claimed features so that even if one of ordinary skill in the art were properly motivated to combine these two references, logically the combination would not disclose, suggest, or otherwise render obvious the claimed invention, including those missing features; and the Office Action fails to make out a *prima facie* case of proper motivation to modify Hung-yi in view of Given, as suggested.

Further, it is respectfully submitted the additional rejections noted in the Office Action have also been overcome as the claims rejected therein are dependent claims and the additional applied reference also do not teach or suggest the features recited in the corresponding independent claims.

CONCLUSION

In view of the above, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present Application, the Examiner is respectfully requested to contact Robert J. Webster, Reg. No. 46,472, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By _____

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